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Promotion and protection of human rights: implementation of human rights instruments

Report of the Third Committee*

Rapporteur: Mr. Suljuk Mustansar **Tarar** (Pakistan)

I. Introduction

1. At its 2nd plenary meeting, on 21 September 2012, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-seventh session, under the item entitled "Promotion and protection of human rights", the sub-item entitled "Implementation of human rights instruments" and to allocate it to the Third Committee.

2. The Third Committee considered the sub-item at its 20th, 21st, 31st, 35th, 38th and 40th meetings, on 23 October and on 6, 8, 15 and 19 November 2012. At its 20th, 21st and 31st meetings, on 23 October, and 6 November, the Committee held a general discussion on the sub-item jointly with sub-item 69 (d), entitled "Comprehensive implementation of and follow-up to the Vienna Declaration and Programme of Action". An account of the Committee's discussion is contained in the relevant summary records (A/C.3/67/SR.20, 21, 31, 35, 38 and 40).

3. For the documents before the Committee under this sub-item, see document A/67/457.

4. At the 20th meeting, on 23 October, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment made an introductory statement and responded to questions and comments made by the representatives of Norway, Singapore, Switzerland, the European Union, Liechtenstein, Morocco, the United States of America, the Russian Federation, Tajikistan and Egypt (see A/C.3/67/SR.20).

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5. At the same meeting, the Chair of the Committee against Torture made an introductory statement and responded to questions and comments made by the representatives of Cuba and the European Union (see A/C.3/67/SR.20).

6. Also at the same meeting, the Chair of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment made an introductory statement and responded to interventions made by the representatives of Switzerland, the European Union, the Czech Republic and Denmark (see A/C.3/67/SR.20).

7. At the same meeting, the Chair of the Committee on the Rights of Persons with Disabilities also made an introductory statement and responded to questions and comments made by the representatives of China, New Zealand (also on behalf of Mexico and Sweden) and the European Union (see A/C.3/67/SR.20).

8. At the 21st meeting, on 23 October, the Chair of the Committee on Economic, Social and Cultural Rights made an introductory statement, and responded to questions and comments made by the representatives of China and the European Union (see A/C.3/67/SR.21).

9. At the same meeting, the Chair of the Committee on Human Rights made an introductory statement and responded to questions and comments made by the representatives of South Africa and the European Union (see A/C.3/67/SR.21).

II. Consideration of proposals

A. Draft resolution A/C.3/67/L.25

10. At the 35th meeting, on 8 November, the representative of Sweden, on behalf of Bolivia (Plurinational State of), Brazil, Burkina Faso, Cameroon, Chile, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Ecuador, El Salvador, Georgia, Guatemala, Haiti, Honduras, Ireland, Jordan, Latvia, Liberia, Mali, Malta, Mexico, Mongolia, Montenegro, Morocco, Namibia, New Zealand, Norway, Panama, Peru, Portugal, the Republic of Moldova, Romania, the Russian Federation, Serbia, Slovakia and the former Yugoslav Republic of Macedonia, introduced a draft resolution entitled "Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto" (A/C.3/67/L.25).

11. At the 40th meeting, on 19 November, the attention of the Committee was drawn to the statement of programme budget implications contained in document A/C.3/67/L.30.

12. At the same meeting, the representative of New Zealand made a statement, and announced that the following countries had joined in sponsoring the draft resolution: Afghanistan, Albania, Argentina, Australia, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, the Czech Republic, Denmark, the Dominican Republic, Egypt, Estonia, Finland, France, Greece, Guinea-Bissau, Hungary, Iceland, India, Israel, Italy, Jamaica, Lithuania, Luxembourg, Malaysia, Myanmar, the Netherlands, Nicaragua, the Niger, Nigeria, Paraguay, the Philippines, Poland, the Republic of Korea, Slovenia, South Africa, Spain, Swaziland, Thailand, Turkey, Uganda, Ukraine and Uruguay.

13. Also at the same meeting, the representative of New Zealand orally revised the text as follows:

(a) In the second preambular paragraph, the words "one hundred and twenty-five" were replaced with the words "one hundred and twenty-six"; and the words "seventy-five" were replaced with the words "seventy-six";

(b) In operative paragraph 4, the word "*Invites*" was replaced with the word "*Encourages*";

(c) In operative paragraph 5, the year "2013" was replaced with the year "2014".

14. Also at the 40th meeting, the Secretary informed the Committee that, in view of the revisions made, the programme budget implications contained in document A/C.3/67/L.30 would no longer apply.

15. At the same meeting, Armenia, Austria, Bangladesh, Belize, Burundi, Kyrgyzstan, Papua New Guinea, San Marino, Suriname, Sierra Leone and Tunisia joined in sponsoring the draft resolution, as orally revised.

16. Also at the same meeting, the Committee adopted draft resolution A/C.3/67/L.25, as orally revised (see para. 21, draft resolution I).

17. After the adoption of the draft resolution, a statement was made by the representative of the United States of America (see A/C.3/67/SR.40).

B. Draft resolutions A/C.3/67/L.26 and Rev.1

18. At the 35th meeting, on 8 November, the representative of Denmark, on behalf of Albania, Andorra, Argentina, Armenia, Austria, Belgium, Bolivia (Plurinational State of), Brazil, Burkina Faso, Chile, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Maldives, Mali, Malta, Mexico, Micronesia (Federated States of), Mongolia, the Netherlands, New Zealand, Norway, Panama, Poland, Portugal, the Republic of Moldova, Romania, San Marino, Senegal, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland and Uruguay, introduced a draft resolution entitled "Torture and other cruel, inhuman or degrading treatment or punishment" (A/C.3/67/L.26), which read:

"*The General Assembly*,

"*Reaffirming* that no one shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment,

"*Recalling* that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law, including international human rights law and international humanitarian law, that must be respected and protected under all circumstances, including in times of international or internal armed conflict or disturbance or any other public emergency, that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant

international instruments and that legal and procedural safeguards against such acts must not be subject to measures that would circumvent this right,

"*Recalling also* that the prohibition of torture is a peremptory norm of international law and that international, regional and domestic courts have recognized the prohibition of cruel, inhuman or degrading treatment or punishment as customary international law,

"*Recalling further* the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, without prejudice to any international instrument or national legislation which contains or may contain provisions of wider application,

"*Emphasizing* the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment and of abiding strictly by the definition of torture contained in article 1 of the Convention,

"*Noting* that, under the Geneva Conventions of 1949, torture and inhuman treatment are a grave breach and that, under the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court, acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

"*Noting also* that 26 June 2012 marked the twenty-fifth anniversary of the entry into force of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

"*Welcoming* the entry into force of the International Convention for the Protection of All Persons from Enforced Disappearance, the implementation of which will make a significant contribution to the prevention and prohibition of torture, including by prohibiting secret places of detention and by ensuring legal and procedural safeguards for persons deprived of their liberty, and encouraging all States that have not done so to consider signing, ratifying or acceding to the Convention,

"*Commending* the persistent efforts of civil society organizations, including non-governmental organizations, national human rights institutions and national preventive mechanisms, and the considerable network of centres for the rehabilitation of victims of torture, to prevent and combat torture and to alleviate the suffering of victims of torture,

"*Deeply concerned* with all acts which can amount to torture and other cruel, inhuman or degrading treatment or punishment committed against persons exercising their rights of peaceful assembly and freedom of expression in all regions of the world,

"1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

"2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture must be made offences under domestic criminal law punishable by appropriate penalties that take into account their grave nature, and encourages States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

"3. *Welcomes* the establishment of national preventive mechanisms to prevent torture and other cruel, inhuman or degrading treatment or punishment, urges States to consider establishing, appointing, maintaining or enhancing independent and effective mechanisms with qualified expertise to undertake monitoring visits to places of detention, inter alia, with a view to preventing acts of torture or other cruel, inhuman or degrading treatment or punishment, and calls upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to designate or establish national preventive mechanisms that are truly independent, properly resourced and effective;

"4. *Emphasizes* the importance of States ensuring proper follow-up to the recommendations and conclusions of the relevant treaty bodies and mechanisms, including the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, national preventive mechanisms and the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, while recognizing the important role of the universal periodic review and relevant national or regional bodies in preventing torture and other cruel, inhuman or degrading treatment or punishment;

"5. *Condemns* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security and counter-terrorism or through judicial decisions, and urges States to ensure accountability of those responsible for all such acts;

"6. *Encourages* States to consider establishing or maintaining appropriate national processes to record allegations of torture and other cruel, inhuman or degrading treatment or punishment and ensure that such information is accessible in accordance with applicable law;

"7. *Stresses* that an independent, competent domestic authority must promptly, effectively and impartially investigate all allegations of torture or other cruel, inhuman or degrading treatment or punishment, as well as whenever there is reasonable ground to believe that such an act has been

committed, and that those who encourage, instigate, order, tolerate, acquiesce in, consent to or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including the officials in charge of any place of detention, or other place where persons are deprived of their liberty, where the prohibited act is found to have been committed;

"8. *Recalls*, in this respect, the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a valuable tool in efforts to prevent and combat torture and the updated set of principles for the protection and promotion of human rights through action to combat impunity;

"9. *Calls upon* all States to implement effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, particularly in places of detention and other places where persons are deprived of their liberty, including legal and procedural safeguards, as well as education and training of personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

"10. *Urges* States, as an important element in preventing and combating torture and other cruel, inhuman or degrading treatment or punishment, to ensure that no authority or official orders, applies, permits or tolerates any sanction or other prejudice against any person or organization for having been in contact with any national or international monitoring or preventive body active in the prevention and combating of torture and other cruel, inhuman or degrading treatment or punishment;

"11. *Calls upon* all States to adopt a victim-oriented approach, as explained by the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to the views and needs of victims in policy development and other activities relating to rehabilitation, prevention and accountability for torture;

"12. *Also calls upon* all States to adopt a gender-sensitive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to gender-based violence;

"13. *Further calls upon* States to ensure that the rights of persons with disabilities, bearing in mind the Convention on the Rights of Persons with Disabilities, are fully integrated into torture prevention and protection, and welcomes the efforts of the Special Rapporteur in this regard;

"14. *Encourages* all States to ensure that persons convicted of torture or other cruel, inhuman or degrading treatment or punishment have no subsequent involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty and that persons charged with torture or other cruel, inhuman or degrading treatment or punishment have no involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty while such charges are pending;

"15. *Emphasizes* that acts of torture in armed conflict are serious violations of international humanitarian law and in this regard constitute war crimes, that acts of torture can constitute crimes against humanity and that the perpetrators of all acts of torture must be prosecuted and punished, and in this regard notes the efforts of the International Criminal Court to end impunity by seeking to ensure accountability and punishment of perpetrators of such acts, in accordance with the Rome Statute, bearing in mind its principle of complementarity, and encourages States that have not yet done so to consider ratifying or acceding to the Rome Statute;

"16. *Strongly urges* States to ensure that no statement that is established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, encourages States to extend that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, and recognizes that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

"17. *Stresses* that States must not punish personnel for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

"18. *Urges* States not to expel, return ('refouler'), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, stresses the importance of effective legal and procedural safeguards in this regard, and recognizes that diplomatic assurances, where given, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement;

"19. *Recalls* that, for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights;

"20. *Calls upon* States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to fulfil their obligation to submit for prosecution or extradite those alleged to have committed acts of torture, and encourages other States to do likewise, bearing in mind the need to fight impunity;

"21. *Stresses* that national legal systems must ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress without suffering any retribution for bringing complaints or giving evidence, have access to justice, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken;

"22. *Recalls* its resolution 43/173 of 9 December 1988 on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and in this context stresses that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical care and legal counsel as well as visits by family members and independent monitoring mechanisms are effective measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

"23. *Reminds* all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished;

"24. *Emphasizes* that conditions of detention must respect the dignity and human rights of detainees, highlights the importance of reflecting on this in efforts to promote respect for and protection of the rights of detainees, and notes in this regard concerns about solitary confinement when it amounts to torture or other cruel, inhuman or degrading treatment or punishment;

"25. *Calls upon* all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export, import and use of equipment that have no practical use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment;

"26. *Urges* all States that have not yet done so to become parties to the Convention and the Optional Protocol thereto as a matter of priority;

"27. *Urges* all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 concerning inter-State and individual communications, to consider the possibility of withdrawing their reservations to article 20 and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 with a view to enhancing the effectiveness of the Committee as soon as possible;

"28. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles and persons with disabilities when submitting reports to the Committee;

"29. *Welcomes* the work of the Committee and of the Subcommittee and their reports, recommends that they continue to include information on the follow-up by States to their recommendations, and supports the Committee and the Subcommittee in their intention to further improve the effectiveness of their working methods;

"30. *Invites* the Chairs of the Committee and of the Subcommittee to present oral reports on the work of the committees and to engage in an

interactive dialogue with the General Assembly at its sixty-eighth session under the sub-item entitled 'Implementation of human rights instruments';

"31. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of States, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee, and to provide the support necessary to enable the Subcommittee to provide advice and assistance to States parties to the Optional Protocol for the establishment and operation of national preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose;

"32. *Takes note* of the interim report of the Special Rapporteur, and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;

"33. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by States to his recommendations, visits and communications, including progress made and problems encountered, and on other official contacts;

"34. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to fully and expeditiously respond to and follow up on his urgent appeals, to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur on requested visits to their countries as well as with respect to the follow-up to his recommendations;

"35. *Stresses* the need for the continued regular exchange of views among the Committee, the Subcommittee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations crime prevention and criminal justice programme, with regional organizations and mechanisms, as appropriate, and with civil society organizations, including non-governmental organizations, with a view to enhancing further their effectiveness and cooperation on issues relating to the prevention and eradication of torture, inter alia, by improving their coordination;

"36. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, appeals to all States and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions, welcomes the establishment of and encourages contributions to the Special Fund established by the Optional Protocol to support the implementation of the recommendations made by the Subcommittee as well as education programmes of the national preventive mechanisms;

"37. *Requests* the Secretary-General to continue to transmit to all States the appeals of the General Assembly for contributions to the Funds and to include the Funds on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

"38. *Also requests* the Secretary-General to submit to the Human Rights Council and to the General Assembly at its sixty-eighth session a report on the operations of the Funds;

"39. *Further requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in preventing and combating torture and assisting victims of torture or other cruel, inhuman or degrading treatment or punishment, including, in particular, the Committee, the Subcommittee and the Special Rapporteur, commensurate with the strong support expressed by Member States for preventing and combating torture and assisting victims of torture, in order to enable them to discharge their mandates in a comprehensive, sustained and effective manner and taking fully into account the specific nature of their mandates;

"40. *Calls upon* all States, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and civil society organizations, including non governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

"41. *Decides* to consider at its sixty-eighth session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture and the Special Fund established by the Optional Protocol, the report of the Committee against Torture, the report of the Subcommittee against Torture and the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment."

19. At its 38th meeting, on 15 November, the Committee had before it a revised draft resolution entitled "Torture and other cruel, inhuman or degrading treatment or punishment" (A/C.3/67/L.26/Rev.1), submitted by Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Bolivia (Plurinational State of), Brazil, Burkina Faso, Canada, Chile, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, the Czech Republic, Denmark, Ecuador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Maldives, Mali, Malta, Mexico, Micronesia (Federated States of), Mongolia, Morocco, the Netherlands, New Zealand, Norway, Panama, Poland, Portugal, the Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay, joined by Benin, Bosnia and Herzegovina, Bulgaria, Israel, Madagascar, Montenegro, Nicaragua, Nigeria, Paraguay, Peru, the Republic of Korea, Sierra Leone, Timor-Leste and Venezuela (Bolivarian Republic of).

20. At the same meeting, the Committee adopted draft resolution A/C.3/67/L.26/Rev.1 (see para. 21, draft resolution II).

III. Recommendations of the Third Committee

21. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft resolution I
Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto

The General Assembly,

Recalling its previous relevant resolutions, the most recent of which was resolution 66/229 of 24 December 2011, as well as relevant resolutions of the Human Rights Council, the Commission for Social Development and the Commission on Human Rights,

Welcoming the fact that, since the opening for signature of the Convention on the Rights of Persons with Disabilities[1] and the Optional Protocol thereto[2] on 30 March 2007, one hundred and fifty-four States have signed and one hundred and twenty-six States have ratified the Convention and ninety States have signed and seventy-six States have ratified the Optional Protocol, and that one regional integration organization has ratified the Convention,

Noting that, while the Convention on the Rights of Persons with Disabilities has enjoyed a very high level of ratification in a short time, the Committee on the Rights of Persons with Disabilities currently meets for only one one-week session and one two-week session per year, and noting that, in particular cases, members of the Committee may require reasonable accommodation, as defined in the Convention,

Noting also that document and translation costs for the reports of States parties constitute the largest part of the budget for the Committee,

Recalling its resolutions 66/254 of 23 February 2012 and 66/295 of 17 September 2012 on the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system, and recognizing in this regard that a long-term solution to the problem of the increasing number of reports of States parties to the Convention on the Rights of Persons with Disabilities can be found in this context,

1. *Calls upon* those States that have not yet done so to consider signing and ratifying the Convention on the Rights of Persons with Disabilities[1] and the Optional Protocol thereto[2] as a matter of priority;

2. *Welcomes* the holding of the fifth session of the Conference of States Parties to the Convention, which was held in September 2012;

3. *Also welcomes* the work of the Committee on the Rights of Persons with Disabilities, and encourages sustained efforts by the Committee to improve the efficiency of its working methods;

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[1] United Nations, *Treaty Series*, vol. 2515, No. 44910.

[2] Ibid., vol. 2518, No. 44910.

4. *Encourages* States parties to adhere to the page limit established by the Committee for reports of States parties, and notes that this would reduce the operating costs of the Committee;

5. *Decides* to authorize for the Committee, without prejudice to the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system, two annual pre-sessional working group meetings of one week each, starting in 2014, with the participation of up to six members of the Committee, to be held after the two annual sessions of the Committee, in order to ensure the most efficient and effective use of its annual session time by allowing time for the consideration of additional reports;

6. *Also decides* to authorize for the Committee, without prejudice to the intergovernmental process of the General Assembly on strengthening and enhancing the effective functioning of the human rights treaty body system, the addition of two weeks of meeting time per year to the existing regular sessions, starting in 2014;

7. *Welcomes* the report of the Secretary-General[3] and the activities undertaken in support of the Convention;

8. *Encourages* the Inter-Agency Support Group on the Convention on the Rights of Persons with Disabilities to continue its work to mainstream the Convention throughout the United Nations system through its Strategy and Plan of Action, approved in 2010, and calls upon the Department of Economic and Social Affairs of the Secretariat and the Office of the United Nations High Commissioner for Human Rights to continue strengthening their cooperation in this regard;

9. *Invites* the Secretary-General to intensify efforts to assist States to become parties to the Convention and the Optional Protocol, including by providing assistance with a view to achieving universal adherence;

10. *Requests* the Secretary-General to continue the progressive implementation of standards and guidelines for the accessibility of facilities and services of the United Nations system, taking into account relevant provisions of the Convention, in particular when undertaking renovations, including interim arrangements;

11. *Also requests* the Secretary-General to take further actions to promote the rights of persons with disabilities in the United Nations system in accordance with the Convention, including the retention and recruitment of persons with disabilities;

12. *Requests* United Nations agencies and organizations, and invites intergovernmental and non-governmental organizations, to continue to strengthen efforts undertaken to disseminate accessible information on the Convention and the Optional Protocol, including to children and young people to promote their understanding, and to assist States parties in implementing their obligations under those instruments;

13. *Requests* the Secretary-General to submit to the General Assembly at its sixty-ninth session a report on the status of the Convention and the Optional Protocol and on the implementation of the present resolution.

[3] A/67/281.

Draft resolution II
Torture and other cruel, inhuman or degrading treatment or punishment

The General Assembly,

Reaffirming that no one shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right under international law, including international human rights law and international humanitarian law, that must be respected and protected under all circumstances, including in times of international or internal armed conflict or disturbance or any other public emergency, that the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments and that legal and procedural safeguards against such acts must not be subject to measures that would circumvent this right,

Recalling also that the prohibition of torture is a peremptory norm of international law and that international, regional and domestic courts have recognized the prohibition of cruel, inhuman or degrading treatment or punishment as customary international law,

Recalling further the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,[1] without prejudice to any international instrument or national legislation which contains or may contain provisions of wider application,

Emphasizing the importance of properly interpreting and implementing the obligations of States with respect to torture and other cruel, inhuman or degrading treatment or punishment and of abiding strictly by the definition of torture contained in article 1 of the Convention,

Noting that, under the Geneva Conventions of 1949,[2] torture and inhuman treatment are a grave breach and that, under the statute of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, the statute of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994 and the Rome Statute of the International Criminal Court,[3] acts of torture can constitute crimes against humanity and, when committed in a situation of armed conflict, constitute war crimes,

Noting also that 26 June 2012 marked the twenty-fifth anniversary of the entry into force of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,

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[1] United Nations, *Treaty Series*, vol. 1465, No. 24841.

[2] Ibid., vol. 75, Nos. 970-973.

[3] Ibid., vol. 2187, No. 38544.

Welcoming the entry into force of the International Convention for the Protection of All Persons from Enforced Disappearance,[4] the implementation of which will make a significant contribution to the prevention and prohibition of torture, including by prohibiting secret places of detention and by ensuring legal and procedural safeguards for persons deprived of their liberty, and encouraging all States that have not done so to consider signing, ratifying or acceding to the Convention,

Commending the persistent efforts of civil society organizations, including non-governmental organizations, national human rights institutions and national preventive mechanisms, and the considerable network of centres for the rehabilitation of victims of torture, to prevent and combat torture and to alleviate the suffering of victims of torture,

Deeply concerned with all acts which can amount to torture and other cruel, inhuman or degrading treatment or punishment committed against persons exercising their rights of peaceful assembly and freedom of expression in all regions of the world,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment;

2. *Emphasizes* that States must take persistent, determined and effective measures to prevent and combat all acts of torture and other cruel, inhuman or degrading treatment or punishment, stresses that all acts of torture must be made offences under domestic criminal law punishable by appropriate penalties that take into account their grave nature, and encourages States to prohibit under domestic law acts constituting cruel, inhuman or degrading treatment or punishment;

3. *Welcomes* the establishment of national preventive mechanisms to prevent torture and other cruel, inhuman or degrading treatment or punishment, urges States to consider establishing, appointing, maintaining or enhancing independent and effective mechanisms with qualified expertise to undertake monitoring visits to places of detention, inter alia, with a view to preventing acts of torture or other cruel, inhuman or degrading treatment or punishment, and calls upon States parties to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[5] to fulfil their obligation to designate or establish national preventive mechanisms that are truly independent, properly resourced and effective;

4. *Emphasizes* the importance of States ensuring proper follow-up to the recommendations and conclusions of the relevant treaty bodies and mechanisms, including the Committee against Torture, the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, national preventive mechanisms and the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, while

[4] Resolution 61/177, annex.

[5] United Nations, *Treaty Series*, vol. 2375, No. 24841.

recognizing the important role of the universal periodic review, national human rights institutions and other relevant national or regional bodies in preventing torture and other cruel, inhuman or degrading treatment or punishment;

5. *Condemns* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security and counter-terrorism or through judicial decisions, and urges States to ensure accountability of those responsible for all such acts;

6. *Encourages* States to consider establishing or maintaining appropriate national processes to record allegations of torture and other cruel, inhuman or degrading treatment or punishment and ensure that such information is accessible in accordance with applicable law;

7. *Stresses* that an independent, competent domestic authority must promptly, effectively and impartially investigate all allegations of torture or other cruel, inhuman or degrading treatment or punishment, as well as wherever there is reasonable ground to believe that such an act has been committed, and that those who encourage, instigate, order, tolerate, acquiesce in, consent to or perpetrate such acts must be held responsible, brought to justice and punished in a manner commensurate with the severity of the offence, including the officials in charge of any place of detention, or other place where persons are deprived of their liberty, where the prohibited act is found to have been committed;

8. *Recalls*, in this respect, the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles)[6] as a valuable tool in efforts to prevent and combat torture and the updated set of principles for the protection and promotion of human rights through action to combat impunity;[7]

9. *Calls upon* all States to implement effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment, particularly in places of detention and other places where persons are deprived of their liberty, including legal and procedural safeguards, as well as education and training of personnel who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment;

10. *Urges* States, as an important element in preventing and combating torture and other cruel, inhuman or degrading treatment or punishment, to ensure that no authority or official orders, applies, permits or tolerates any sanction or other prejudice against any person or organization for having been in contact with any national or international monitoring or preventive body active in the prevention and combating of torture and other cruel, inhuman or degrading treatment or punishment;

11. *Calls upon* all States to adopt a victim-oriented approach[8] in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to the views and needs of victims in policy development

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[6] Resolution 55/89, annex.

[7] See E/CN.4/2005/102/Add.1.

[8] See A/HRC/16/52.

and other activities relating to rehabilitation, prevention and accountability for torture;

12. *Also calls upon* all States to adopt a gender-sensitive approach in the fight against torture and other cruel, inhuman or degrading treatment or punishment, paying special attention to gender-based violence;

13. *Further calls upon* States to ensure that the rights of persons with disabilities, bearing in mind the Convention on the Rights of Persons with Disabilities,[9] are fully integrated into torture prevention and protection, and welcomes the efforts of the Special Rapporteur in this regard;

14. *Encourages* all States to ensure that persons convicted of torture or other cruel, inhuman or degrading treatment or punishment have no subsequent involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty and that persons charged with torture or other cruel, inhuman or degrading treatment or punishment have no involvement in the custody, interrogation or treatment of any person under arrest, detention, imprisonment or other deprivation of liberty while such charges are pending;

15. *Emphasizes* that acts of torture in armed conflict are serious violations of international humanitarian law and in this regard constitute war crimes, that acts of torture can constitute crimes against humanity and that the perpetrators of all acts of torture must be prosecuted and punished, and in this regard notes the efforts of the International Criminal Court to end impunity by seeking to ensure the accountability and punishment of perpetrators of such acts, in accordance with the Rome Statute,[3] bearing in mind its principle of complementarity, and encourages States that have not yet done so to consider ratifying or acceding to the Rome Statute;

16. *Strongly urges* States to ensure that no statement that is established to have been made as a result of torture is invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made, encourages States to extend that prohibition to statements made as a result of cruel, inhuman or degrading treatment or punishment, and recognizes that adequate corroboration of statements, including confessions, used as evidence in any proceedings constitutes one safeguard for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

17. *Stresses* that States must not punish personnel for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

18. *Urges* States not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, stresses the importance of effective legal and procedural safeguards in this regard, and recognizes that diplomatic assurances, where given, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement;

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[9] United Nations, *Treaty Series*, vol. 2515, No. 44910.

19. *Recalls* that, for the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights;

20. *Calls upon* States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment[1] to fulfil their obligation to submit for prosecution or extradite those alleged to have committed acts of torture, and encourages other States to do likewise, bearing in mind the need to fight impunity;

21. *Stresses* that national legal systems must ensure that victims of torture or other cruel, inhuman or degrading treatment or punishment obtain redress without suffering any retribution for bringing complaints or giving evidence, have access to justice, are awarded fair and adequate compensation and receive appropriate social, psychological, medical and other relevant specialized rehabilitation, and urges States to establish, maintain, facilitate or support rehabilitation centres or facilities where victims of torture can receive such treatment and where effective measures for ensuring the safety of their staff and patients are taken;

22. *Recalls* its resolution 43/173 of 9 December 1988 on the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and in this context stresses that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical care and legal counsel as well as visits by family members and independent monitoring mechanisms are effective measures for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

23. *Reminds* all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished;

24. *Emphasizes* that conditions of detention must respect the dignity and human rights of detainees, highlights the importance of reflecting on this in efforts to promote respect for and protection of the rights of detainees, and notes in this regard concerns about solitary confinement when it amounts to torture or other cruel, inhuman or degrading treatment or punishment;

25. *Calls upon* all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export, import and use of equipment that have no practical use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment;

26. *Urges* all States that have not yet done so to become parties to the Convention and to give early consideration to signing and ratifying the Optional Protocol thereto as a matter of priority;

27. *Urges* all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 concerning inter-State and

individual communications, to consider the possibility of withdrawing their reservations to article 20 and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 with a view to enhancing the effectiveness of the Committee as soon as possible;

28. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information concerning children and juveniles and persons with disabilities when submitting reports to the Committee;

29. *Welcomes* the work of the Committee and the Subcommittee and their reports, recommends that they continue to include information on the follow-up by States parties to their recommendations, and supports the Committee and the Subcommittee in their efforts to further improve the effectiveness of their working methods;

30. *Invites* the Chairs of the Committee and the Subcommittee to present oral reports on the work of the committees and to engage in an interactive dialogue with the General Assembly at its sixty-eighth session under the sub-item entitled "Implementation of human rights instruments";

31. *Calls upon* the United Nations High Commissioner for Human Rights, in conformity with her mandate established by the General Assembly in its resolution 48/141 of 20 December 1993, to continue to provide, at the request of States, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee and for the establishment and operation of national preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose, and to provide the support necessary to enable the Subcommittee to provide advice and assistance to States parties to the Optional Protocol;

32. *Takes note* of the interim report of the Special Rapporteur,[10] and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;

33. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by States to his recommendations, visits and communications, including progress made and problems encountered, and on other official contacts;

34. *Calls upon* all States to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to fully and expeditiously respond to and follow up on his urgent appeals, to give serious consideration to responding favourably to requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur on requested visits to their countries as well as with respect to the follow-up to his recommendations;

[10] See A/67/279.

35. *Stresses* the need for the continued regular exchange of views among the Committee, the Subcommittee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations crime prevention and criminal justice programme, with regional organizations and mechanisms, as appropriate, and with civil society organizations, including non-governmental organizations, with a view to enhancing further their effectiveness and cooperation on issues relating to the prevention and eradication of torture, inter alia, by improving their coordination;

36. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, appeals to all States and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions, welcomes the establishment of and encourages contributions to the Special Fund established by the Optional Protocol to support the implementation of the recommendations made by the Subcommittee as well as education programmes of the national preventive mechanisms;

37. *Requests* the Secretary-General to continue to transmit to all States the appeals of the General Assembly for contributions to the Funds and to include the Funds on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

38. *Also requests* the Secretary-General to submit to the Human Rights Council and to the General Assembly at its sixty-eighth session a report on the operations of the Funds;

39. *Further requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in preventing and combating torture and assisting victims of torture or other cruel, inhuman or degrading treatment or punishment, including, in particular, the Committee, the Subcommittee and the Special Rapporteur, commensurate with the strong support expressed by Member States for preventing and combating torture and assisting victims of torture, in order to enable them to discharge their mandates in a comprehensive, sustained and effective manner and taking fully into account the specific nature of their mandates;

40. *Calls upon* all States, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and civil society organizations, including non governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

41. *Decides* to consider at its sixty-eighth session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture and the Special Fund established by the Optional Protocol, the report of the Committee against Torture, the report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.